

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$15,878.30, for dates of service 08/28/01 through 09/01/01.
- b. The request was received on 02/20/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 01/28/02
 - b. UB-92
 - c. EOB/TWCC 62 forms/Medical Audit summary
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated 07/10/02
 - b. EOB
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/27/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 07/01/02. The response from the insurance carrier was received in the Division on 07/11/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:

“The respondent has paid charges from 8-28-01 through 9-01-01 in the amount of \$10,652.64, having ‘carved out’ the implants from the total charges and paid at cost plus 10%. By deducting the complete implant charges of \$49,117.00 from the

total billed charges of \$72,056.46, it is the respondent's opinion that the SLRF is not applicable.

However, it is our position that pursuant to Rule 134.401 (C)(6), SLRF for this **entire admission** is applicable since no on-site audit was performed and pursuant to this rule, the only 'charges which may be deducted are personal items' and those not related to the compensable injury. The implantables are a necessary part of the total admission and, therefore, the entire bill should be reimbursed per SLRF at 75%.

We pray that the Commission will find in favor of the Requestor and grant additional payment of \$43,389.71, which is the difference in 75% of billed charges, \$54,042.35, and the \$10,652.64 previously paid."

2. Respondent

"This dispute involves the carrier's payment for dates of service 8/28/01-9/1/01. The requester billed \$72,056.46; (Carrier) paid \$10,440.60. The requester believes it is entitled to an additional \$43,389.71.

1. The Commission's stop-loss methodology has been challenged twice at the State Office of Administrative Hearings (SOAH).
2. SOAH concluded, '...that a carrier should be allowed to reduce charges for implantables...to calculate whether a bill exceeds the stop-loss threshold.
3. (Carrier) paid \$10,652.64 to the requester, as follows:
 - a. The billed amount of \$72,056.46 minus \$49,117.00 implant charges equals \$22,939.46, which puts it below the stop-loss threshold, making it subject to the per diem method.
 - b. The claimant was in the hospital for four days. The per diem rate for surgery is \$1,118.00 per day. The per diem rate of \$1,118.00 multiplied by 4 equals \$4,472.00.
 - c. The cost of the implants plus 10% was \$5,968.00. This figure, \$5,968.60, plus the total per diem amount of \$4472.00 equals \$10,440.60. An additional \$212.04 for blood products and storage was added to the reimbursement for a total payment of \$10,652.64.
4. (Carrier) believes the appropriate amount to pay the requester, under Rule 134.401 as interpreted by SOAH, is \$10,652.64.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 08/28/01 and extending through 09/01/01.

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2. The Provider billed the Carrier \$72,056.46 for the dates of service 08/28/01 and extending through 09/01/01.
3. The Carrier made a total reimbursement of \$10,652.64 for the dates of service 08/28/01 and extending through 09/01/01.
4. The amount left in dispute is \$43,389.71.

V. RATIONALE

Medical Review Division's rationale:

The medical reports indicate that the services were performed. The medical documentation submitted by the Requestor indicates that the total hospital bill was \$72,056.46. Per Rule 134.401 (c)(6) (A)(i)(iii), once the bill has reached the minimum Stop-Loss threshold of \$40,000.00, the entire admission will be paid using the Stop-Loss Reimbursement Factor (SLRF) of 75%. Per Rule 134.401 (c)(6)(A)(v), the charges that may (emphasis added) be deducted from the total bill are those for personal items (television, telephone), not related to the compensable injury, or if an onsite audit is performed, those charges not documented as rendered during the admission may be deducted.

The carrier is allowed to audit the hospital bill on a per line basis. Per the EOB, the Carrier deducted \$5,968.60 for supply/implants. The Carrier denied "Hospital Services" as "F-REIMBURSED IN ACCORDANCE WITH THE TEXAS HOSPITAL INPATIENT FEE GUIDELINE. The Carrier also reduced the implantables with the denial code of "M-SERVICES WERE REIMBURSED IN ACCORDANCE WITH THE CARRIER'S FAIR AND REASONABLE; COST DATA IS UNAVAILABLE FOR YOUR FACILITY AT THIS TIME. ADDITIONAL REIMBURSEMENT MAY BE CONSIDERED UPON RECEIPT OF THIS INFORMATION. M-THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON THE BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LABOR CODE 413.011(B)." In reading Rule 134.401 (c)(6), additional reimbursement only (emphasis added) applies if the bill does not reach the stop-loss threshold. The hospital is required to bill, "...usual and customary charges..." per Rule 134.401 (b)(2)(A). The carrier should audit the entire bill to see if the charges represent "usual and customary" amounts. This would include the implantables. Therefore, the carrier would audit the implantables and reduce them to "usual and customary" charges if they thought the bill for implantables was inflated. (It would not be appropriate to start out the audit by automatically reducing the cost of the implantables to cost + 10%, which is indicated in the Medical Fee Guideline since the rule states this method is used only for the per diem reimbursement methodology.) There was no documentation submitted by the carrier to indicate that the reduction of the implantables was based on anything more than reducing them up front to cost + 10%. There is no documentation to indicate that the carrier attempted to determine the usual and customary charges billed by other facilities for implantables in the same geographical region as the Hospital. Even if the charge appears to be inflated based on an invoice or based on information from the Fee Guidelines, the carrier must determine what is usual and customary for those items in that region and billed by other facilities. If other

facilities only bill cost + 10% for implantables, some evidence of that determination would be needed if the Hospital challenges the reimbursement amount. The carrier would also subtract any personal items or items not related to the compensable injury and then determine the final amount to see if the bill would be paid at the per diem methodology or the stop-loss methodology.

The hospital has billed its "usual and customary charge" of \$49,117.00 for the implantables. The carrier has not submitted evidence of what is usual and customary in that region for these items.

Therefore, the total reimbursement will be calculated in the following manner:

Total charges are \$72,056.46.

Multiply the audited charges of \$72,056.46 x 75%

$\$72,056.46 \times .75 = \$54,042.35$

The carrier paid \$10,652.64

$\$54,042.35 - \$10,652.64 = \$43,389.71$

Therefore, additional reimbursement is recommended in the amount of \$43,389.71.

The above Findings and Decision are hereby issued this 15th day of August 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$43,389.71 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 15th day of August 2002.

Judy Bruce
Director of Medical Review
Medical Review Division

JB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.